IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

WRIT PETITION NO.3156 OF 2004

M/s.Global Tenants Welfare Association
& ors. Petitioners

vs.

Union of India & ors. Respondents

Mr.V.V.Thorat, Sr.Counsel i/b.M/s.S.K.Srivastava & Co. for the petitioners.

Mr.Anil C. Singh with Ms.S.I.Shah for respondents 1 to 3.

Mr.K.R.Belosay for respondent no.4.

Ms.P.Purandare for B.M.C.

ALONG WITH
WRIT PETITION NO.3164 OF 2004

M/s.Sara Associates & anr. Petitioners

vs.

Union of India & ors. Respondents

Mr.Jimmy Avasia i/b.M/s.S.K.Srivastav & Co. for the petitioners.

Mr.Anil C. Singh with Ms.S.I.Shah for respondents 1 to 3.

Mr.K.R.Belosay for respondent no.4.

Ms.P.Purandare for B.M.C.

AND ALONG WITH
WRIT PETITION NO.3165 OF 2004

M/s.Global Marketing & anr. Petitioners

vs.

Union of India & ors. Respondents

Mr.P.K.Dhakephalkar, Sr.Counsel i/b.M/s.S.I.Shaikh for the petitioners,.

Mr.Anil C. Singh with Ms.S.I.Shah for respondents 1 to 3.

Mr.K.R.Belosay, AGP for respondent no.4.

Ms.P.Purandare for B.M.C.

CORAM : F.I.REBELLO &
ANOOP V. MOHTA,JJ.

DATED : 14th November, 2006

P.C.

One of the reliefs sought in these petitions was to declare some of the provisions of the Public Premises (Eviction of Unauthorised Occupants) Act, 1971 as violative of the guarantee under Articles 14 and 21 of the Constitution of India and be struck down. The Supreme Court has upheld the validity of the Act and consequently that challenge is no loner available before this Court.

2. The other issue is pertaining to the show cause notice issued to the petitioners and their members under the provisions of the Public Premises (Eviction of Unauthorised occupants) Act, 1971. In our opinion, the petitioners have already appeared before the Estate Officer concerned. It appears that the Estate Officer was appointed has subsequently recused himself and the proceedings were not proceeding for some time. On behalf of the Union of India and Central Public Works Department, the learned counsel points out that the Estate Officer has now been appointed.

3. Considering the above, in our opinion, it will be open to the petitioners to raise all contentions which are available to them including the contentions as now raised by them in these petitions before the Estate Officer. It is for the Estate Officer to consider the same and thereafter proceed and pass necessary orders according to law. If there be any adverse order against the petitioners herein, that will not be acted upon for a period of six weeks from the date of passing the order.

4. Parties have argued as to the nature of their possession. It is not for us in these petitions to go into that issue. Suffice it to say that the respondents state that if the property is not in their possession, cannot take possession without following the established procedure according to law as laid down in several judgments of the Supreme Court.

5. We make it clear that we have not decided the merits of the matter and have left all questions open for consideration before the Estate Officer.

6. The newly appointed Estate Officer before proceeding with the enquiry to give notice on the counsel who are on record in the proceedings.

7. On behalf of the Corporation, the learned counsel submits that they have demolished seven structures.

8. With the above observation, all these petitions stand disposed of. The earlier interim orders granted stand vacated in all these petitions.

(F.I. REBELLO, J.)

(ANOOP V. MOHTA,J.)